



Chapter 40B Discussion Forum

Jane Wallis Gumble, Director

Spring 2001



What is 40B ?

- **Enacted in 1969, 40B is a state statute often called the Comprehensive Permit Law or “Anti-Snob Zoning” Law**
- **Chapter 40B enables local Zoning Boards of Appeals (ZBAs) to approve affordable housing developments under flexible rules if at least 25% of units have long-term affordability restrictions**
- **In communities with less than 10% subsidized housing, Chapter 40B allows sponsors of comprehensive permit projects denied by the local ZBAs to appeal to the State Housing Appeals Committee (HAC)**



What is the Intent of Chapter 40B?

- **In 1969, the intent of Chapter 40B was to address the shortage of affordable housing statewide by reducing unnecessary barriers erected by local zoning and other restrictions**
- **In 2001, the intent of Chapter 40B is to address the shortage of affordable housing statewide by reducing unnecessary barriers created by local zoning and other restrictions**



What is the Intent of Chapter 40B?

- In addition, the intent of Chapter 40B is to provide a way for a municipality to have town boards and committees work cooperatively and simultaneously with the local ZBA to structure a project with at least 25% affordable units.



What has 40B Achieved ?

- **Since 1970, comprehensive permit projects representing 25,000 units of housing have been approved in 170 communities**
- **Chapter 40B projects include church-sponsored housing for the elderly, single-family subdivisions with affordable units for town residents, multi-family rental housing projects, mixed-income contamination projects**



What has 40B Achieved ?

- **Thousands of Massachusetts renters have been able to purchase their first homes.**
- **Thousands of individuals and households have been able to secure affordable rental housing in tight rental markets.**



Chase Estates, Westwood

- **Total Units: 100**
- **Affordable Units: 25**
- **Market Rate: \$350,000**
- **Affordable: \$94,500**





Anthony Drive, Hyannis

- Completed in 1991
- Total Units: 12
- Affordable Units: 12
- Average Selling Price: \$75,000





Bedford Meadows, Bedford

- Completed in 1994
- Total Units: 40
- Affordable Units: 10
- Market Rate (Avg.): \$176,500
- Affordable: \$93,400





Allendale, Medfield

- Completed in 1991
- Total Units: 17
- Affordable Units: 17
- Average Selling Price: \$93,800





What is the Best Advice to Communities On 40B?

- **Develop a housing plan and a housing needs study before a 40B is submitted**
- **Identify affordable housing goals**
- **Identify sites suitable for affordable housing**
- **Have the ZBA develop 40B review guidelines, and ask the state to help the ZBA**
- **Establish a local housing partnership or other local body**
- **Plan to hire experts as needed to work on 40B's**
- **Designate a facilitator/negotiator**



What characteristics are mandatory for 40B Projects?

- The project must be approved under a state or federal housing program
- The project must have a site eligibility letter issued by a qualified agency (DHCD, MHFA, the U.S. Department of HUD, the New England Fund member banks)
- The project sponsor must have site control
- At least 25% of the units in the proposed project must be restricted over time for rental by or sale to households at or below 80% of area median income
- Profit is limited: the development entity must be a public agency, a nonprofit organization, or a limited dividend organization



What should a ZBA do once an application has been filed?

- Make sure the jurisdiction requirements have been met :
 - site approval letter
 - site control
 - profit limitations
- Make sure the application is complete
- Meet with other town boards to get input
- Make sure experts help the ZBA and the town
- Consider using a facilitator or negotiator to work with the developer
- Call DHCD with questions



**What should a ZBA do once
an application has been filed?**

Call DHCD



What must a Comprehensive Permit Application include?

- **A Site Approval Letter**
- **Subdivision Plan**
(if applicable)
- **Evidence of Site Control**
- **Utilities Plan**
- **Preliminary Drawings**
- **Requested Exemptions**
- **Building Tabulation**



What Issues must be identified in the Application?

■ Existing Site Area

- Topography
- Existing Structures
- Utilities and Infrastructure
- Streets
- Wetlands
- Abutters List
- Alternative uses under existing zoning
- First level ASTM 21E Environmental Assessment
- Identification of historic archeological significance



What Issues must be identified in the Application?

■ Proposed Site Development *Proposed structures including:*

- Roadways
- Subdivision of Land
- Open Spaces
- Etc.

■ Project Impacts

- Traffic
- Municipal Services
- Site and Stopping Distance
- Exits
- Wildlife
- Construction Impacts etc.



What is the ZBA Hearing Process?

- Application received - ZBA notifies other boards and forwards application.
- ZBA must advertise at least 14 days before hearing in local newspaper, notify interested parties and post hearing notice in town hall.
- Within 30 days of application, ZBA must open public hearing. (Hearing length varies depending on need).
- ZBA must render a decision by majority vote within 40 days of termination of hearing. Failure may result in automatic issuance of permit.



Possible Conditions

- **ZBA may impose conditions to eliminate or mitigate the adverse impacts of the development.**
 - **Health & Safety**
 - **Environmental**
 - **Design**
 - **Open Space**
 - **Planning Impacts on Development**

- **ZBA must not impose conditions that place additional burdens on an affordable housing development that would not be imposed in similar circumstance upon market rate housing.**



Harvard Green, Harvard

- Completed in 1999
- Total Units: 32
- Affordable Units: 8
- Market Rate: Approx. \$300,000
- Affordable \$94,500





Cedar Hill, Westwood

- **Total Units: 56**
- **Affordable Units: 14**
- **Market Rate: \$400,000**
- **Affordable: \$95,500**





Merrimack Meadows, Tewksbury

- **Total Units: 127**
- **Affordable Units: 44**
- **Moderate Units: 55**
- **Market Rate:**
\$112,000/\$131,000
- **Affordable:**
\$75,000/\$85,000
- **Moderate:**
\$85,000/\$110,000





Prides Crossing, Methuen

- Total Units: 184
- HOP Units: 4
- MHFA: 23
- LHA: 20
- Market Rate:
\$100,000/\$150,000
- HOP Unit:
\$75,000/\$85,000
- Moderate Rate: \$99,000





How to Reach Us

DHCD

1 Congress Street 10th floor

Boston, MA 02114

Phone: 617.727.7765

FAX: 617.727.5060

www.state.ma.us/dhcd